

## IAIU EVIDENCE OUTLINE

### I. Elements of Evidence

The Investigator of institutional abuse and neglect reviews six elements of evidence:

- INJURY

A physical manifestation caused by other than accidental means occurring at an out-of-home care facility.

- WITNESSES

Individuals who can offer firsthand accounts of an incident as directly observed. They can be staff, volunteers, visitors or children attending the facility.

- OPPORTUNITY

The Investigator checks to see if the alleged perpetrator had access to the child.

- INSTITUTION'S POLICIES AND PROCEDURES

An institution's policies, procedures and prior history of allegations can provide important information to the current investigation.

- ALLEGED PERPETRATOR'S CREDIBILITY, DEemeanOR AND BACKGROUND

The perpetrator's account of the incident is assessed for credibility by the Investigator.

- VICTIM'S CREDIBILITY, DEemeanOR AND BACKGROUND

The victim's account of the incident is assessed for credibility by the Investigator.

### II. Sources of Evidence - Evidence Collection

The Investigator seeks sources who can provide information about each element of evidence.

A. Injury

The Investigator obtains information about and documentation of an injury through:

- Verification by medical personnel (nurse or doctor), either on-site or at a physician's office or hospital (direct evidence).
- A medical expert rendering an opinion of the circumstances and cause of injury (indirect evidence).
- Eye-witness(es) who saw and can describe the incident and the injury, e.g., they saw blood or marks on the skin immediately after the incident.
- A staff person who did not see the incident but saw and can describe the injury.
- The Investigator's own observations of the injuries and pictures he has taken of the child.
- Pictures of the injury taken by the facility or law enforcement personnel.
- Pictures of the child's injury taken by the parents when the child came home from the facility.
- The child's description of the injury or his marking the site of the injury on a body chart or body picture.

B. Witnesses

The Investigator interviews all identified witnesses and also seeks others who may have been possible witnesses by:

- Checking employee time sheets for others on duty during the time of the incident; and
- Asking both the victim and alleged perpetrator if anyone else were present during the incident.

## 1. Written Reports

The Investigator may obtain written incident reports or a nurse's or doctor's notes as a source of witness account by absent employees, (e.g., those on vacation or leave, unavailable for interviewing during the investigation).

The Investigator seeks written accounts or incident reports made by the alleged perpetrator for use during the Investigatory interview(s) as a source of corroboration. Such written reports should be obtained as evidence whenever possible, whether or not the employee is available to be interviewed.

### C. Opportunity

To verify opportunity, the Investigator:

- Checks time sheets to see if the alleged perpetrator was present on the day or days of the incident;
- Checks the site of the incident as to whether or not is physically offered the opportunity for the alleged perpetrator and victim to be together.
- Checks with possible witnesses for their interpretation of whether the opportunity may have existed for the alleged perpetrator and victim to be together; and
- Looks for absent staff or staff being called to the phone as possibilities which might offer the opportunity for the perpetrator to be alone with the child victim.

### D. Institution's Policies and Procedures

The Investigator seeks information about the facility such as:

- A history of allegations at the facility, which may lend credibility to the present allegation.
- The adequacy and appropriateness of staff training and the quality of training the alleged perpetrator has received.

- Staffing patterns and their affect on the adequacy of supervision for the child. Staffing patterns may be less than ideal with employees working double shifts or being assigned to units containing residents of the opposite sex without regard to employees' gender or new employees being poorly integrated into the system.
- New programs, policies, or procedures. A facility may have just begun a new program, which may result in new procedures and policy or a disregard for old policy and procedures, which might result in incidents of abuse or create situations that might be interpreted as abuse or neglect. The Investigator asks about any new programs, policies, and procedures instituted at the facility.
- The hiring and screening procedures used by the facility, as these could affect the safety of the children. Examples include the hiring of employees without background checks or hiring employees who do not fulfill the experience or educational requirements of the job.
- Reviewing log books, incident reports, and change of shift reports to obtain anecdotal background information on the facility.
- Reviewing the adequacy of the facility's communication to its staff of its policy, procedures and staff expectations.
- Determining whether the facility's security unit investigated the incident and, if so, reviewing their report.

The Investigator may need to visit several sites at the facility to obtain all the information needed, (e.g., administrative office, medical office, resident's cottage).

E. Alleged Perpetrator's Credibility, Demeanor and Background

The Investigator observes the perpetrator's demeanor and the facts as stated by the perpetrator. He also checks the perpetrator's background for any prior history of substantiation or inappropriate behavior, general work record, use of judgment on the job, regard

for policy and procedures, and adequacy of training for job activities.

The Investigator is alert to any precipitating factors in the perpetrator's behavior which may have some bearing on the incident, (e.g., a perpetrator working a double shift and called in on his day off).

Other information regarding the perpetrator is obtained when:

- The perpetrator admits to the fact of child abuse and neglect, even though there are no injuries.
- The perpetrator admits that he employed corporal punishment, an inappropriate hold, or used excessive force to correct a child's behavior, and in doing so left marks on the child.
- Other staff state that the perpetrator had said he was going to "teach the child a lesson" or was going to get even with the child for some prior action.
- Other staff state that the perpetrator has used corporal punishment in the past.

F. Victim's Credibility, Demeanor and Background

The Investigator observes the victim's demeanor during the interview and checks the facts as stated by the victim. The Investigator may have the victim "walk through" the incident or have the victim show the Investigator exactly where the incident took place.

He also checks if the victim has a prior history of retaliatory measures toward staff or whether on the day of the incident, there were any precipitating factors in the child's behavior which may have some bearing on the incident, (e.g., a child having had an earlier confrontation with a staff member).

## III. Specifics of the Evidence – EVIDENCE OUTLINE

The Investigator includes answers to the following questions for each element of evidence as a part of the information gathering process.

A. Injury

Was there an injury? \_\_\_\_\_ yes \_\_\_\_\_ no

What type of injury was it?

No injury (if none, check): \_\_\_\_\_

Medical verification \_\_\_\_\_ yes \_\_\_\_\_ no

Insignificant injury (if yes, check): \_\_\_\_\_

Medical verification \_\_\_\_\_ yes \_\_\_\_\_ no

Protracted significant injury (if yes, check): \_\_\_\_\_

Medical verification \_\_\_\_\_ yes \_\_\_\_\_ no

Description of the injury (include location, size, age of injury)

Note: An insignificant injury can be redness, small minor scratches, marks or brush burns which do not require medical treatment and are not observable or present for any significant prolonged amount of time (not protracted). Insignificant injury may be documented by a medical but no treatment is required.

If medical attention was received, what kind? Describe:

From whom?

When?

What kind of verification?

Where did the injury occur?

Facility (if yes, check): \_\_\_\_\_

Bus Transport (if yes, check): \_\_\_\_\_

Home (if yes, check): \_\_\_\_\_

Elsewhere (if yes, check): \_\_\_\_\_



Was the injury a result of staff intervention? \_\_\_\_ yes \_\_\_\_ no  
Explain:

Precipitating factors (i.e., what was happening prior to the intervention?):

Was verbal intervention attempted? \_\_\_\_ yes \_\_\_\_ no

Was there a call for assistance? \_\_\_\_ yes \_\_\_\_ no

What did staff try before the restraint?

What part of the body was restrained?

Was child put face up or face down? Describe position of child:

What occurred after the intervention/restraint?

What is the facility's policy on physical intervention/restraint?

Was staff aware of policy? \_\_\_\_ yes \_\_\_\_ no

Was staff trained in appropriate methods of restraint/intervention? \_\_\_\_ yes \_\_\_\_ no

Was the injury consistent with the explanation given by the victim?  
By the alleged perpetrator? Explain:

Was the injury the result of this intervention? (Was the child involved in other activities before or after the incident that might have resulted in injury?)

Was there a second medical opinion sought? \_\_\_\_ yes \_\_\_\_ no  
Name of physician:  
Explain:



What was the outcome?

B. Witnesses

Were there witnesses? \_\_\_\_\_ yes \_\_\_\_\_ no

Did witnesses speak freely? \_\_\_\_\_ yes \_\_\_\_\_ no

Were witnesses able to support the description of the incident?  
\_\_\_\_\_ yes \_\_\_\_\_ no

Did witnesses offer conflicting statements or were there  
discrepancies in their information? Explain:

Were written incident accounts or reports available?  
\_\_\_\_\_ yes \_\_\_\_\_ no

If witnesses were no longer available for contact (e.g., fired;  
resigned; moved from last known address), what efforts were  
made to contact them, and what was the reason for no contact?

Was there anything that led you to suspect a staff "code of silence,"  
where co-workers may protect themselves and each other by  
protecting the alleged perpetrator (e.g., to cover up their sleeping  
on the job or not being where they were assigned; being afraid of  
peer pressure or the administration; or any reason to believe  
alleged perpetrator is being set up)? \_\_\_\_ yes \_\_\_\_ no  
Explain:

Were collateral witnesses interviewed?

In the facility?	_____ yes	_____ no
In the home?	_____ yes	_____ no
Caregiver?	_____ yes	_____ no
Other?	_____ yes	_____ no

Explain:

If there were no witnesses or few witnesses, where were others at the time of the incident?

C. Opportunity

Was staff on-site when the victim states the incident took place?

\_\_\_\_\_ yes      \_\_\_\_\_ no

Who were they?

Was this verifiable?      \_\_\_\_\_ yes      \_\_\_\_\_ no

If verifiable, by what means?

Witnesses (if yes, check):	_____
Log records (if yes, check):	_____
Employment roster/schedule (if yes, check):	_____
Other (if yes, check):	_____

What was the child's schedule?

Does the site's physical plan offer opportunities for isolation of the victim and the perpetrator? \_\_\_\_\_ yes      \_\_\_\_\_ no

Explain:

In evaluating sexual abuse cases: What type of toilet facilities are available to staff at the institution? Are these the same toilet facilities used by the children?

D. Institution's Policies and Procedures

Have there been prior recommendations to this facility?

\_\_\_\_\_ yes      \_\_\_\_\_ no

Are they related to the present incident? Explain:



Were staff members adequately trained for their jobs?

\_\_\_\_\_ yes \_\_\_\_\_ no

Explain:

Are staffing patterns adequate? \_\_\_\_\_ yes \_\_\_\_\_ no

Explain:

Does the facility hire appropriately qualified staff? \_\_\_\_\_ yes \_\_\_\_\_ no

Explain:

Were there any new programs instituted lately that may have a bearing on the incident? \_\_\_\_\_ yes \_\_\_\_\_ no

Explain:

E. Alleged Perpetrator's Credibility, Demeanor and Background

Did the allegation perpetrator engage in behaviors unbecoming to his position or allow him/herself to be placed in circumstances that suggest inappropriate activity (e.g., transporting the victim in his own car; taking the victim to his own home; making verbal sexual innuendoes toward victim)? \_\_\_\_\_ yes \_\_\_\_\_ no

Explain:

Have there been prior incidents regarding misconduct or use of poor judgment by the alleged perpetrator? \_\_\_\_\_ yes \_\_\_\_\_ no

Explain:

Are there conflicting statements regarding the perpetrator's behaviors or actions? \_\_\_\_\_ yes \_\_\_\_\_ no

Explain:

Was there a precipitating factor which has a bearing on the incident (e.g., alleged perpetrator said the child had threatened him earlier in the day)? \_\_\_\_\_ yes \_\_\_\_\_ no

Explain:

Did the alleged perpetrator admit to causing harm to child (e.g., accidentally)? \_\_\_\_ yes \_\_\_\_ no

Explain:

F. Victim's Credibility, Motivation and Background

If unable to interview the victim because of age or condition (e.g., an infant or a profoundly retarded child), were other sources interviewed (e.g., parent, caretaker)? \_\_\_\_ yes \_\_\_\_ no

If so, who?

Was the victim able to provide pertinent information and/or consistent information? \_\_\_\_ yes \_\_\_\_ no

Explain:

Does the child have a prior history of retaliatory measures toward staff? (Investigators need to be aware that a child who has such a history can be victimized because of that history, alleged perpetrators may prey on such a child.) \_\_\_\_ yes \_\_\_\_ no

Explain:

Does the victim or the victim's parents have issues with the facility that could have resulted in their use of the investigative process to retaliate or harass the facility? \_\_\_\_ yes \_\_\_\_ no

Explain:

Does the victim want to leave the facility? \_\_\_\_ yes \_\_\_\_ no

Explain:

Is the victim angry enough to lie in order to achieve this?

\_\_\_\_ yes \_\_\_\_ no

Explain:

Were there precipitating factors that may have some bearing on the incident? \_\_\_\_ yes \_\_\_\_ no

Explain:

